

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the May 31, 2006  
Board of Review Meeting

**Date:** June 2, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, May 31, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, June 7, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Mrs. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the May 24, 2006 meeting were approved.

3. New Business

(a) 97,850  
This matter was tabled

(b) 104,985  
Mr. Gitter presented this case that involved a claimant who was a corporate officer and owned stock in the company on which his claim for disability during unemployment is based. The Appeal Tribunal had held the claim for disability during unemployment filed as of October 16, 2006 invalid as the

claimant was not unemployed. The Board noted that the record was lacking specific details regarding the claimant's corporate ownership as well as his disability. As a result, the Board voted to remand the case for additional testimony. Mr. Gitter will prepare the remand.

(c) 105,891

Mr. Gitter described this case that involved a claimant who filed a claim for unemployment benefit as of February 5, 2006. The Appeal Tribunal had held the claim invalid under N.J.S.A. 43:21-19(c), N.J.S.A. 43:21-19(c)(2) and N.J.A.C. 12: 17-5.6(a)1. The Board noted that the claimant was on Workers' Compensation prior to filing a claim for unemployment benefits. Also, the claimant submitted payroll documentation regarding his wages on appeal to the Board. As the record was lacking regarding the claimant's wages as well as if the claimant met the criteria for the disability alternate base year, the Board voted to remand the case for additional testimony as well as to give the Appeal Tribunal an opportunity to consider the payroll documentation. Mr. Gitter will prepare the remand.

(d) 106,628

As described by Ms. Futterman, this case involved a claimant who contends she was discharged when she asked for a raise. The employer contends the claimant left work voluntarily. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that additional testimony was needed from the claimant and the employer's firsthand witness regarding whether the claimant was discharged or voluntarily left work. As a result, the Board voted to remand the case. Ms. Futterman will prepare the remand.

(e) 99,289

As presented by Ms. Keller, this case involved a claimant who left work because of the manner in which she was treated by a coworker. The claimant advised her supervisor of the behavior, to no avail. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the last event involved the coworker attempting to do the claimant bodily harm, which gave the claimant good cause attributable to the work for leaving. As a result, the Board voted to reverse the Appeal Tribunal. Ms. Futterman will prepare the decision.

Added

(f) 105, 401

Mr. Sieber presented this case of a claimant who was a corporate officer and owned 50% of the stock in the corporation on which his claim is based. The claimant filed a claim for unemployment benefits as of February 5, 2006. The corporation ceased operations as of February 3, 2006. However

the claimant continued servicing existing contracts through April 15, 2006. The Appeal Tribunal had held the claim filed as of February 5, 2006 invalid as the claimant was not unemployed. After discussion, the Board voted to affirm the Appeal Tribunal.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary

GY:gs